

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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MATTHEW RAMIREZ,

Case No. 3:20-cv-00300-MMD-CSD

Plaintiff,

ORDER

v.

ALFREDO MONTES,

Defendant.

*Pro se* Plaintiff Matthew Ramirez brings this action under 42 U.S.C. § 1983. Before the Court is the Report and Recommendation (“R&R” or “Recommendation”) of United States Magistrate Judge Craig S. Denney (ECF No. 37) recommending the Court deny Defendant Alfredo Montes’ motion for summary judgment (ECF No. 25 (“Motion”)). Montes had until August 31, 2022, to file an objection. To date, no objection to the R&R has been filed. For this reason, and as explained below, the Court adopts the R&R, and will deny the Motion.

The Court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). Where a party fails to object to a magistrate judge’s recommendation, the Court is not required to conduct “any review at all . . . of any issue that is not the subject of an objection.” *Thomas v. Arn*, 474 U.S. 140, 149 (1985); *see also United States v. Reyna-Tapia*, 328 F.3d 1114, 1116 (9th Cir. 2003) (“De novo review of the magistrate judges’ findings and recommendations is required if, but *only* if, one or both parties file objections to the findings and recommendations.”) (emphasis in original); Fed. R. Civ. P. 72, Advisory Committee Notes (1983) (providing that the Court “need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.”).

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1 Because there is no objection, the Court need not conduct de novo review, and is  
2 satisfied Judge Denney did not clearly err. Here, Judge Denney recommends denying  
3 Montes' Motion because his proffered evidence does not establish he is entitled to  
4 summary judgment—or qualified immunity, because, “it was clearly established that using  
5 force maliciously for the purpose of causing harm violates the Eighth Amendment.” (ECF  
6 No. 37 at 6-7.) The Court agrees with Judge Denney. Having reviewed the R&R and the  
7 record in this case, the Court will adopt the R&R in full.

8 It is therefore ordered that Judge Denney's Report and Recommendation (ECF  
9 No. 37) is accepted and adopted in full.

10 It is further ordered that Montes' Motion (ECF No. 25) is denied.

11 It is further ordered that, pursuant to LR 16-5, the Court finds that it is appropriate  
12 to refer this case to Judge Denney to conduct a settlement conference. If the parties do  
13 not settle, the Joint Pretrial Order is due within 30 days of the date the settlement  
14 conference is held.

15 DATED THIS 8<sup>th</sup> Day of September 2022.

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19 MIRANDA M. DU  
20 CHIEF UNITED STATES DISTRICT JUDGE  
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